

**IN THE MATTER** of the Resource Management Act 1991

**AND**

**IN THE MATTER** of the Proposed Wellington District Plan

---

**STATEMENT OF EVIDENCE OF MARK NICHOLAS ARBUTHNOT FOR  
RESTAURANT BRANDS LIMITED IN RELATION TO HEARING STREAM 4  
– CENTRES**

**12 JUNE 2023**

---

## CONTENTS

1. INTRODUCTION.....	1
2. SCOPE OF EVIDENCE.....	2
3. STATUTORY FRAMEWORK.....	4
4. BACKGROUND.....	5
5. MINIMUM BUILDING HEIGHT.....	5
6. MINIMUM GROUND FLOOR HEIGHT.....	14
7. ACTIVITY STATUS OF DRIVE-THROUGH RESTAURANTS IN THE GENERAL INDUSTRIAL ZONE.....	20
8. CROSS-REFERENCES TO THE CENTRES AND MIXED USE DESIGN GUIDE.....	21

## EXECUTIVE SUMMARY

- A. This statement of evidence addresses the submissions made by Restaurant Brands Limited ("**Restaurant Brands**") in relation to 'Hearing Stream 4 – Centres' of the Proposed Wellington District Plan ("**Proposed Plan**").
- B. Specific to 'Hearing Stream 4', Restaurant Brands' submissions sought the retention of the Commercial and Mixed Use Zone provisions as notified, with the exception of:
- a. Rule CCZ-S4, MCZ-S2, LCZ-S2 'Minimum building height', which requires new buildings and structures to achieve a minimum height of 22m (CCZ) and 7m (MCZ, LCZ).
  - b. Rule NCZ-S3, LCZ-S3, COMZ-S3, MUZ-S4, MCZ-S3, CCZ-S5, 'Minimum ground floor height', which requires buildings and structures to have a minimum floor to floor height of 4m.
  - c. The activity status for drive-through restaurants within the General Industrial Zone.
  - d. Cross-references to the Centres and Mixed Use Design Guide.
- C. Restaurant Brands sought the deletion of the minimum building height and ground floor height standards in their entirety on the basis that they are not required to achieve a well-functioning urban environment, are overly prescriptive, unworkable, and will only serve to increase the cost and/or regulatory processes of the development.
- D. In respect of the minimum building height standard, I am of the opinion that it lacks flexibility and has the potential to discourage activities with the Commercial and Mixed Use Zones, to the detriment of the economic wellbeing of the community. The Retail and Market Assessment prepared on behalf of Council supports this view, advising against the imposition of the standard due to the complex and uncertain potential impact on development it may have. Instead,

the Assessment suggests the alternative approach of calculating rates on a land basis rather than a capital basis to incentivise maximising floor space on available land. In my opinion, the minimum building height standard does not align with the National Policy Statement on Urban Development (“**NPS-UD**”), and its potential negative impacts on economic growth and employment opportunities contradict the objective of achieving a well-functioning urban environment.

- E. Similarly, the minimum ground floor height standard, as proposed, lacks flexibility and may deter certain types of development that have specific functional requirements. The standard’s application to every building within the Commercial and Mixed Use Zones is unnecessary and could result in inefficiencies, and result in businesses seeking to locate outside the District. In my opinion, the standard should focus on specific areas where it is likely that there will be a high turnover of activities within the ground floor of buildings such as the streets subject to active frontage and verandah coverage requirements, where adaptability is more relevant.
- F. I am also of the opinion that the minimum building height and minimum ground floor height standards could undermine the objectives of the Proposed District Plan, particularly by reducing development capacity and limiting economic and social wellbeing. The standards do not represent efficient or effective methods to achieve the objectives of the Proposed District Plan and are not required to give effect to the NPS-UD.
- G. In regard to the activity status of drive-through restaurants in the General Industrial Zone, I agree with the s.42A report that the existing provision for service retail accommodates drive-through restaurants and that no further amendments to the General Industrial Zone are required in respect of this matter.
- H. The cross-references to the Centres and Mixed Use Design Guide in the Proposed District Plan should be deleted. The Design Guide, as it currently stands, does not adequately consider the functional or

operational requirements of activities and focuses primarily on aesthetic, environmental, and social outcomes. Its prescriptive and inflexible nature, including the “pass/fail” assessment approach, could lead to an onerous and unreasonable resource consent process.

- I. Some requirements, such as reducing travel/shipping distances and installing insulation beyond minimum standards, should be addressed at the national level rather than through the resources consent process. The policy requirement for development to “meet” the Design Guide’s requirements limits flexibility, providing applicants with less freedom to come up with solutions to better suit specific needs or circumstances and increased cost and time through a more time-consuming and costly resource consent process.

## 1. INTRODUCTION

1.1 My full name is Mark Nicholas Arbuthnot. I am a Director at Bentley & Co. Limited (“**Bentley & Co.**”), an independent planning consultancy practice based in Auckland.

### **Qualifications and experience**

1.2 I hold the qualifications of Bachelor of Arts (Honours) (Town Planning) and Diploma in Town Planning (Urban Conservation) from Newcastle University, England, obtained in 2000 and 2002 respectively.

1.3 I am a Member of the Royal Town Planning Institute, and an Associate of the New Zealand Planning Institute.

1.4 I have been with Bentley & Co. for 18 years. Prior to my current employment with Bentley & Co., I was a local authority planning officer in the United Kingdom for a period of five years. During this time, I have provided resource management services in respect of various plan changes and resource consent applications for a wide range of commercial clients.

1.5 Bentley & Co. was first engaged in 1997 by Restaurant Brands as their planning consultants. During my time at Bentley & Co., I have assisted Restaurant Brands with the consenting of multiple projects for the development of its existing and new landholdings nationwide, together with advice and assistance in respect of evolving planning provisions throughout New Zealand.

1.6 I was engaged by Restaurant Brands in August 2022 to provide advice in respect of, and prepare its submissions on, the Proposed Plan.

### **Code of conduct**

1.7 I confirm I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note 2023 and I agree to

comply with it. My qualifications as an expert are set out above. I confirm that the issues addressed in this brief of evidence are within my area of expertise, except where I state I am relying on the evidence of another person. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

## 2. SCOPE OF EVIDENCE

2.1 Hearing Stream 4 relates to the submissions that were received by the Council in relation to the Commercial and Mixed Use Zone provisions of the Proposed District Plan.

2.2 My evidence relates to Restaurant Brands' primary submissions, which sought:

- (a) The deletion of Standard CCZ-S4, MCZ-S2, LCZ-S2 Minimum building height, which requires new buildings and structures to achieve a minimum height of 22m (City Centre Zone) and 7m (Metropolitan Centre Zone, Local Centre Zone).<sup>1</sup>
- (b) The deletion of Standard NCZ-S3, LCZ-S3, COMZ-S3, MUZ-S4, MCZ-S3, CCZ-S5, Minimum ground floor height, which requires buildings and structures to have a minimum floor to floor height of 4m.<sup>2</sup>
- (c) Provision for drive-through restaurants as a permitted activity within the General Industrial Zone.<sup>3</sup>
- (d) The deletion of any cross-references to the Centres and Mixed Use Design Guide.<sup>4</sup>

---

<sup>1</sup> 349.76, 349.101, 349.167, 349.198

<sup>2</sup> 349.77, 349.102, 349.123, 349.144, 349.168, 349.199

<sup>3</sup> 349.212, 349.215

<sup>4</sup> 349.70, 349.74, 349.95, 349.99, 349.140, 349.161, 349.165, 349.190 349.195, 349.196

- (e) The retention of the Commercial and Mixed Use Zone provisions as otherwise notified.<sup>5</sup>

2.3 My evidence does not address Restaurant Brands' submissions on the content of the Centres and Mixed-Use Design Guide, which I understand will be subject to a separate hearing.

2.4 In preparing this evidence, I have had regard to:

- (a) Restaurant Brands' primary submissions, and the primary and further submissions made by the Council and other parties;
- (b) the section 32 analysis prepared by Wellington City Council;
- (c) the section 42A report (Parts 1 to 6) prepared by Anna Stevens, Lisa Hayes, on behalf of Wellington City Council, dated 26 May 2023;
- (d) the section 42A report on the General Industrial Zone prepared by Hannah van Haren-Giles on behalf of Wellington City Council, dated 26 May 2023;
- (e) the statement of evidence prepared by Nick Locke on behalf of Wellington City Council, dated 26 May 2023;
- (f) the statement of evidence prepared by Kirdan Lees on behalf of Wellington City Council, dated 24 May 2023;
- (g) the statement of evidence of Dr Farzad Zamani on behalf of Wellington City Council, dated 26 May 2023; and
- (h) the statement of evidence of Dr Michael Donn on behalf of Wellington City Council, dated 26 May 2023.

---

<sup>5</sup> 349.57 – 349.69, 349.71 – 349.73, 349.75, 349.78 – 349.81 – 349.94, 349.96 – 349.98, 349.100, 349.103 – 349.106 – 349.122, 349.124 – 349.139, 349.141 – 349.143, 349.145 – 349.160, 349.162 – 349.164, 349.166, 349.169 – 349.189, 349.191 – 349.194, 349.197, 349.200 – 349.211, 349.213, 349.214, 349.216 – 349.224.



2.5 I have had regard to section 32 of the RMA, which requires an evaluation of the objectives, policies and rules that are relevant to Restaurant Brands' primary submissions. I have also had regard to section 32AA of the RMA, which requires a further evaluation for any changes that have been proposed since the original evaluation report under section 32 of the RMA was completed.

### **3. STATUTORY FRAMEWORK**

3.1 The purpose of a district plan is set out in section 72 of the RMA. It is to assist territorial authorities to carry out their functions to achieve the purpose of the RMA.

3.2 Section 75(1) of the RMA sets out the matters that a district plan must state. Section 75(3) of the RMA requires that a district plan must give effect to a national policy statement, a New Zealand coastal policy statement, or a national planning standard.

3.3 Section 76 of the RMA enables territorial authorities to include rules in a district plan for the purposes of carrying out its functions under the RMA, and achieving the objectives and policies of the plan.

3.4 Aspects of the Proposed District Plan are proposed under the Intensification Streamlined Planning Process ("ISPP") and have been prepared under Part 6 of Schedule 1 of the RMA for the intensification planning instrument ("IPI").

3.5 In respect of tier 1 urban environments such as Wellington, Section 77N of the RMA requires the provisions for each urban non-residential zone to give effect to the changes required by policy 3 of the National Policy Statement on Urban Development ("NPS-UD").

3.6 The requirements set out in policy 3 can be modified to be less enabling of development, if authorised to do so under section 77O of the RMA.

#### **4. BACKGROUND**

- 4.1 Restaurant Brands is a leading “Quick Service Retail” (fast food) provider, whose operation in New Zealand comprises the KFC, Pizza Hut, Carl’s Jr, and Taco Bell portfolios. The company has a combined portfolio (owned and franchised) comprising some 241 sites across the country from Kaitaia in the north to Invercargill in the south. Within the Wellington City Council jurisdiction, the company currently operates 7 outlets, comprising 4 KFC, 2 Pizza Hut, and 1 Taco Bell.
- 4.2 Restaurant Brands employs over 3,700 people in New Zealand and is currently undergoing an expansion and reimagining programme for its KFC and Taco Bell outlets nationwide.
- 4.3 Restaurant Brands’ submissions seek to ensure that the proposal appropriately recognises and provides for the operation of its Quick Service Retail activities.

#### **5. MINIMUM BUILDING HEIGHT**

Primary submissions of Restaurant Brands (349.76, 349.101, 349.167, 349.198)

- 5.1 The primary submissions<sup>6</sup> of Restaurant Brands sought the deletion of Standard CCZ-S4, MCZ-S2, LCZ-S2 Minimum building height, which requires new buildings and structures to achieve a minimum height of 22m (City Centre Zone) and 7m (Metropolitan Centre Zone, Local Centre Zone).
- 5.2 The reasons for Restaurant Brands’ submission was that:

There are many buildings with a height less than the required minimum that will contribute positively to a well-functioning urban environment. The proposed standard will result in too many buildings requiring resource consent and is not an efficient or effective method to implement the policies of the Proposed District Plan.

---

<sup>6</sup> 349.76, 349.101, 349.167, 349.198.

*Council recommendation*

5.3 The submissions of Restaurant Brands is recommended to be rejected by the s.42A report. The reasons for rejecting the submission are that:

- (a) The minimum height limit was directed by the Spatial Plan, was approved by Councillors and has been widely engaged on with stakeholders across the Spatial Plan, Draft District Plan, and Proposed District Plan.
- (b) The minimum building height aligns with the City Centre walking catchment height of six storeys and directly links to the objectives, policies and rules seeking to efficiently optimise the development capacity of sites within the City Centre Zone (CCZ-O2, CCZ-O3, CCZ-O6, CCZ-P4, CCZ-P5, CCZ-R18 and CCZ-R20).
- (c) CCZ-S4 responds to an identified issue in the City Centre in that some sites are not efficiently utilising the enabled development capacity, whether that is through low rise development, ground floor car parking or being an empty demolished site. The effects of this include sub-optimal development capacity, impaired residential and commercial building supply and adverse aesthetic and streetscape effects.
- (d) Consistent with CEKP-O2, the Metropolitan Centre Zone seeks to facilitate considerable increased development across its entirety to achieve the objectives of the NPS-UD and the relevant strategic objectives of the Proposed District Plan.
- (e) The standard is appropriate for the Metropolitan Centre Zone as it encourages the realisation of suitable development potential within the zone and facilitates high quality design outcomes.

- (f) The Local Centre Zone seeks to enable increased development in all centres to achieve the intent of the NPS-UD and achieve the intent of policy 3(d) of the NPS-UD and high quality design outcomes.
- (g) The standard is appropriate for the Local Centre Zone as it encourages the realisation of additional development potential within the zone.

### *Section 32 of the RMA*

- 5.4 I disagree with the recommendations of the s.42A report. The imposition of the minimum building height standard is subject to the requirements of s.32 of the RMA, which requires an evaluation of the standard to ascertain its appropriateness, efficiency, and effectiveness.
- 5.5 The relationship between s.32 RMA and s.76 RMA is integral to maintaining the sustainable use of resources. It ensures that district plan rules are not arbitrary, but are justified in relation to the objectives and policies they achieve, and whether the benefits of the restriction outweigh the potential costs. It requires territorial authorities to thoroughly assess and provide a robust rationale for the rules that are proposed.
- 5.6 The only s.32 analysis undertaken by Council in respect of the minimum height standard appears to be in relation to the City Centre Zone so as “...to ensure more efficient use of key development sites”.<sup>7</sup>
- 5.7 The justification for the standard appears to be twofold:
  - (a) The Proposed Dunedin District Plan contains similar standards in respect of minimum height within the Central Business District Zone, the Warehouse Precinct Zone, the

---

<sup>7</sup> Pg.44; Section 32 Evaluation Report, Part 1: Context to s32 evaluation and evaluation of proposed Strategic Objectives.

Princes, Parry and Harrow Street Zone, the CBD Edge Commercial North and South Zones, and the Smith Street and York Place Zone.<sup>8</sup>

- (b) The standard responds to the issues of:<sup>9</sup>
- (i) the need to ensure availability of adequate development capacity to accommodate projected residential demand while also offering a range of housing choice, which is a direct response to the NPS-UD's directive to intensify, maximise development capacity and respond to residential and commercial demands; and
  - (ii) the operative provisions enabling inefficient/non-strategic use of available City Centre development capacity, particularly on large, narrow and/or vacant development sites.

5.8 The s.32 analysis goes on to advise that the application of the minimum height standard in the City Centre Zone is “...*mandated by the need for Council to meet its statutory obligations under the NPS-UDS to enable an uplift in development capacity*”.<sup>10</sup>

5.9 No specific s.32 analysis appears to have been provided in relation to the minimum height standard as it applies to the Metropolitan Centre Zone or the Local Centre Zone. In the absence of any such assessment, the proposed minimum height standard cannot be imposed in these zones.

---

<sup>8</sup> Pg.50; Section 32 Evaluation Report, Part 2: City Centre Zone, Special Purpose Waterfront Zone, Special Purpose Stadium Zone and Te Ngākau Civic Square Precinct.

<sup>9</sup> Pg.73; Ibid.

<sup>10</sup> Pg.86; Section 32 Evaluation Report, Part 2: City Centre Zone, Special Purpose Waterfront Zone, Special Purpose Stadium Zone and Te Ngākau Civic Square Precinct.

*Assessment of the appropriateness, efficiency, and effectiveness of the standard*

- 5.10 In my opinion, the efficient use of land relates to more than just requiring a certain building height. It includes enabling a wide variety of activities; all of which will have their own specific requirements in respect of built form; in a manner that is flexible and responsive to market demands.
- 5.11 The minimum height standard lacks flexibility and has the potential to prevent or discourage activities from establishing within the city centre, to the detriment of the economic wellbeing of the community. This is acknowledged by the *Retail and Market Assessment for Wellington City Council* that was prepared in support of the Proposed District Plan, which recommends *against* imposing the minimum height standard for similar reasons:<sup>11</sup> (emphasis added)

Imposing minimum building heights could increase floorspace. But the impacts are complex and uncertain, depending on the state of the market, developers' risk appetite, the cost of capital and other factors. **Since these rules could have the unintended consequence of reducing development in certain environments, we do not recommend imposing minimum height restrictions.**

- 5.12 The Retail and Market Assessment goes on to advise that the minimum building height standard will only have limited benefits in terms of the efficiency of land use:<sup>12</sup> (emphasis added)

**Minimum building heights may have some limited impacts on the efficiency of land use. But the impacts are complex, uncertain and contingent on the business environment.** It is possible for minimum height restrictions to have the unintended consequence of reducing floorspace when developers delay construction. **We do not recommend imposing minimum height restriction.**

- 5.13 Rather, the Retail and Market Assessment advises that Council should adopt the alternative method of calculating rates on a land basis rather than a capital basis:<sup>13</sup>

---

<sup>11</sup> Pg.2; Retail and Market Assessment for Wellington City Council; Colliers International and Sense Partners; 30 November 2020.

<sup>12</sup> Pg.8; Retail and Market Assessment for Wellington City Council; Colliers International and Sense Partners; 30 November 2020.

Instead of imposing constraints, Wellington City Council could calculate rates on a land basis rather than capital basis. There would be winners and losers from such a policy, but such as policy would incentivise creating floorspace on land available for development.

5.14 The Retail and Market Assessment goes on to undertake a detailed analysis of the minimum building height standard,<sup>14</sup> and advises:

- (a) Minimum height restrictions are rare relative to maximum height restrictions.
- (b) Initiating minimum height restrictions may not bring about additional capacity. It may simply not be economically viable for developers to build a large building rather than a small building, leaving land parcels vacant.
- (c) If constructing a small building is more profitable than leaving the land vacant, which is in turn more profitable than constructing a large building, the standard will have the unintended consequence of reducing floorspace, decreasing social welfare.
- (d) Profitability alone will not determine what gets built. The state of the market can be impacted by events, developers can have different risk preferences and the cost and access to financing can all influence what gets built when.
- (e) Minimum height restrictions imply trade-offs, gaining or losing floorspace depending on conditions. Reductions in floorspace could be an unintended consequence of imposing minimum height restrictions.

5.15 However, neither the s.32 analysis nor the s.42A report has properly acknowledged the expert advice it has received in respect of this matter, which was *not* to impose the minimum height restriction.

---

<sup>13</sup>

Ibid.

<sup>14</sup>

Box B: Assessing minimum height restrictions; Pg.123; Ibid.

5.16 With reference to the Retail and Market Assessment, I do not consider the minimum height standard to be an efficient or effective way of preventing inefficient/non-strategic use of available City Centre development capacity or enabling an uplift in development capacity.

*National Policy Statement on Urban Development 2020*

5.17 I also disagree with the proposition that the minimum height standard in the City Centre Zone is “...mandated by the need for Council to meet its statutory obligations under the NPS-UDS to enable an uplift in development capacity”.<sup>15</sup>

5.18 Section 77N of the RMA requires Wellington City Council to give effect to (i.e. implement) policy 3 of the NPS-UD in all non-residential zones when changing its district plan for the first time through the intensification planning instrument (“IPI”) process.

5.19 In respect of building height and density of urban form, policy 3 of the NPS-UD requires Council to *enable*:

- (a) in city centre zones, building heights and density of urban form to realise as much development capacity as possible, to maximise benefits of intensification; and
- (b) in metropolitan centre zones, building heights and density of urban form to reflect demand for housing and business use in those locations, and in all cases building heights of at least 6 storeys; and
- (c) building heights of at least 6 storeys within at least a walkable catchment of the following:
  - (i) existing and planned rapid transit stops
  - (ii) the edge of city centre zones

---

<sup>15</sup> Pg.86; Section 32 Evaluation Report, Part 2: City Centre Zone, Special Purpose Waterfront Zone, Special Purpose Stadium Zone and Te Ngākau Civic Square Precinct.



(iii) the edge of metropolitan centre zones; and

(d) within and adjacent to neighbourhood centre zones, local centre zones, and town centre zones (or equivalent), building heights and densities of urban form commensurate with the level of commercial activity and community services.

5.20 In my opinion, the term “enable” requires Council to make provision for, or provide the opportunity to achieve, the building heights and densities of urban form for each type of centre, as directed, rather than to *require* development to achieve the outcome in every instance. Had that been the intent of the NPS-UD, I would expect policy 3 to contain more directive language.

5.21 I also note that policies 6 and 8 of the NPS-UD emphasise the importance of decisions being responsive and considering various factors including urban development benefits and development capacity.

5.22 With reference to the Council Retail and Market Assessment, I am of the opinion that the minimum height standard has the potential to reduce economic growth and employment opportunities, to the detriment of the economic wellbeing of the community and contrary to objective 1 of the NPS-UD to achieve a well-functioning urban environment.

5.23 I therefore disagree that the minimum height standard is required to give effect to the NPS-UD.

*Objectives and policies of the Proposed District Plan*

5.24 Having regard to the conclusions and recommendations of the Retail and Market Assessment, I am of the opinion that the minimum height standard has the potential to undermine the objectives of the Proposed District Plan, particularly given that it has the potential to reduce development capacity, to the detriment of the social and economic wellbeing of the community.

5.25 While I acknowledge that policy CCZ-P5, MCZ-P7, and LCZ-P7 all seek to recognise the benefits of intensification by optimising the development capacity of land, having regard to the Retail and Market Assessment, the minimum height standard is not an efficient or effective method to implement these policies, and has the potential to result in the opposite outcome.

*Other matters*

5.26 I note that part of the justification for the minimum building height standard includes the fact that a similar rule is applied by Dunedin City Council to certain zones within Dunedin city centre, and that the standard was approved by Councillors.

5.27 Neither of these are relevant to the statutory requirements of s.32 of the RMA. Notwithstanding, I note that the building height standard that applies to certain zones within Dunedin city centre only requires minimum building heights of one or two storeys (and maximum heights of three or four storeys). This is to achieve a specific amenity outcome, rather than requiring the maximisation of development capacity, as suggested by the s.32 analysis and proposed by the Proposed Plan.

5.28 For the reasons set out above, and having regard to Council's Retail and Market Assessment, I am of the opinion that the minimum height standard should be deleted as:

- (a) other reasonably practicable methods exist to achieve the objective of Council to incentivise the maximisation of floor space, including through calculating rates on a land basis rather than a capital basis;
- (b) it is not an efficient or effective provision to achieve the objective of preventing inefficient/non-strategic use of available City Centre development capacity; and

- (c) it has the potential to reduce economic growth and employment opportunities, to the detriment of the economic wellbeing of the community and contrary to the objective of the NPS-UD to achieve a well-functioning urban environment.

5.29 Details of my recommended changes are appended to this statement of evidence as **Attachment 1**.

## 6. MINIMUM GROUND FLOOR HEIGHT

Primary submissions of Restaurant Brands (349.77, 349.102, 349.123, 349.144, 349.168, 349.199)

- 6.1 The primary submissions<sup>16</sup> of Restaurant Brands sought the deletion of Standard NCZ-S3, LCZ-S3, COMZ-S3, MUZ-S4, MCZ-S3, CCZ-S5, Minimum ground floor height, which requires buildings and structures to have a minimum floor to floor height of 4m.
- 6.2 Restaurant Brands' reasons for the submissions was that drive-through restaurant buildings are constructed with a specific end-use in mind and are not intended to be adaptable for a wide variety of uses over time.
- 6.3 The relief of Restaurant Brands is recommended to be rejected by the s.42A report for the following reasons:
- (a) The standard provides the necessary flexibility for a variety of ground floor activities over time within the City Centre Zone, as higher heights mean that building owners can change ground floor use from one activity to another, including residential activity (if not exempt under CCZ-R12(1)(a)).
- (b) The purpose of MCZ-S3 is to ensure that buildings are adaptable for different uses over time, and the functional and operational needs of activities will be considered at the resource consent assessment stage.

---

<sup>16</sup> 349.77, 349.102, 349.123, 349.144, 349.168, 349.199.

- (c) Standard MUZ-S4 is appropriate as it facilitates high quality design outcomes, providing for a better street frontage and enhancing the quality of the interior by providing increased light, and ensures the building can be adapted to accommodate different uses over time.
  - (d) Standard NCZ-S3 is appropriate as it ensures that the development potential of sites in the Neighbourhood Centre Zone is realised, noting that the NPS-UD directs the Council to enabled intensification in the zone.
  - (e) Standard COMZ-S3 is appropriate as it facilitates high quality design outcomes, providing for a better street frontage and enhancing the quality of the interior by providing increased light, and ensures the building can be adapted to accommodate different uses over time. Furthermore, drive-through restaurants are likely to be unsuitable for the Commercial Zone.
  - (f) The purpose of LCZ-S3 is to ensure that the development potential of sites in the Local Centre Zone is realised, noting that the NPS-UD directs the Council to enabled intensification in the zone, and will prevent underdevelopment of sites and facilitates high quality design outcomes.
- 6.4 I disagree with the conclusions of the s.42A report. I have previously set out the requirements of s.32 of the RMA in relation to the setting of rules under s.76 of the RMA and note that the only s.32 analysis undertaken by Council in respect of the minimum ground floor height standard appears to be in relation to the City Centre Zone.
- 6.5 The justification for the standard appears to be that it is required to encourage new development and redevelopment in the City Centre Zone to be adaptable to change in use over time, including ground floor conversions and residential activities at ground floor.

- 6.6 No specific s.32 analysis appears to have been provided in relation to the minimum ground floor height standard as it applies to the Metropolitan Centre Zone, Mixed Use Zone, Neighbourhood Centre Zone, Commercial Zone, or Local Centre Zone. In the absence of any such assessment, the proposed minimum ground floor height standard cannot be imposed in these zones.

*Assessment of the appropriateness, efficiency, and effectiveness of the standard*

- 6.7 In my opinion, it is not appropriate to require every building within the Commercial and Mixed Use Zones to be adaptable to a wide variety of uses over time, as such an outcome would not provide for those activities that require a specific building design.
- 6.8 The minimum ground floor standard has the potential to increase construction costs, result in inefficient building design, and result in businesses to seek locations outside of the district. While adaptability might be a long-term advantage, it could disincentivise specific types of development if the extra height is not required.
- 6.9 I consider that the standard should more appropriately focus the need to provide adaptable buildings within those parts of the district where it is likely that there will be higher turnover of activities within the ground floor of buildings; namely the streets subject to active frontage and/or verandah coverage requirements.
- 6.10 Outside of these areas, I consider that it is appropriate to provide applicants with a more flexible approach to building design to enable the specific functional and operational requirements of an activity to be taken into consideration without resulting in additional matters for consent being generated.
- 6.11 In my opinion, the best method to achieve this flexibility is by amending Standard NCZ-S3, LCZ-S3, COMZ-S3, MUZ-S4, MCZ-S3, CCZ-S5, Minimum ground floor height, such that it only applies to the

streets subject to active frontage and/or verandah coverage requirements.

*National Policy Statement on Urban Development 2020*

- 6.12 Paragraphs 5.17 to 5.21 above summarise the requirements of the NPS-UD in relation to enabling building heights and density of built form. For similar reasons to those already discussed within this statement of evidence, I disagree with the s.42A report that the NPS-UD directs Council to enable intensification through the imposition of the minimum ground floor height standard.
- 6.13 Furthermore, for similar reasons that are set out in paragraphs 5.10 to 5.16 above, I disagree that the minimum ground floor standard is an efficient and effective method to prevent the underdevelopment of sites.
- 6.14 In my opinion, the NPS-UD encourages a flexible approach to achieving a well-functioning urban environment, particularly in relation to built form. For example:
- (a) Objective 3 focuses on enabling more people to live in areas with many employment opportunities, well-served by public transport, or with high housing demand. This objective does not prescribe a one-size-fits-all approach but rather suggests tailoring strategies based on local factors such as employment opportunities, public transport, and housing demand.
  - (b) Objective 4 acknowledges that urban environments will develop and change over time in response to diverse and changing needs. This implies a need for flexible approaches that can adapt to changing circumstances and needs.
  - (c) Policy 6 and Policy 8 emphasise the importance of decisions being responsive, taking into account a variety of factors

including amenity values, urban development benefits, and climate change effects.

- (d) Policy 10 encourages local authorities to work together and engage with various stakeholders to achieve integrated planning, demonstrating a collaborative and flexible approach.

- 6.15 While it could be argued that the potential long-term benefits of a more adaptable built environment could outweigh the cost of complying with the standard, the Retail and Market Assessment explains why minimum height standards have the potential to result in the unintended consequence of reducing development, to the detriment of the economic and social wellbeing of the community.
- 6.16 In my opinion, the NPS-UD's goal of enabling intensification does not mandate Council to impose minimum building or floor to floor heights, especially when it could result in inefficiencies or disincentives for specific types of development. "Intensification" should also account for the diverse needs of various urban activities, some of which may not require or benefit from high ground floor heights.
- 6.17 While I agree that promoting adaptability and intensification is important, it should not come at the expense of other equally important considerations such as economic viability, sustainable growth, and responsiveness to the diverse and changing needs of urban activities.
- 6.18 For these reasons, I am of the opinion that the application of the minimum ground floor height standard to every building within the Commercial and Mixed Use Zones lacks flexibility and has the potential to reduce economic growth and employment opportunities, to the detriment of the economic wellbeing of the community and contrary to the objective of the NPS-UD to achieve a well-functioning urban environment.

*Objectives and policies of the Proposed District Plan*

6.19 While I acknowledge that policy CCZ-P6, seeks to encourage new development and redevelopment in the City Centre Zone that is sustainable, resilient and adaptable to change in use over time, and policies MCZ-P7, COMZ-P5, LCZ-P7, NCZ-P7 all require development to allow sufficient flexibility for ground floor space to be converted for a range of activities, including residential,<sup>17</sup> I do not consider the minimum ground floor height standard to be an efficient or effective method to implement these policies, and has the potential to reduce economic growth and employment opportunities, to the detriment of the social and economic wellbeing of the community.

*Section 32AA of the RMA*

6.20 Details of my recommended changes are appended to this statement of evidence as **Attachment 1**. With reference to s.32AA of the RMA, I am of the opinion that the changes:

- (a) Appropriately give effect to the requirements of the NPS-UD.
- (b) Achieve the objectives of the Proposed District Plan in relation to the Commercial and Mixed Use Zones.
- (c) Represent a more efficient and effective way of achieving the objectives of the Proposed District Plan without placing unnecessary and onerous consent requirements on activities that have specific functional and operational requirements.
- (d) Better promote economic growth and employment within the district.

---

<sup>17</sup>

There is no equivalent policy for the Mixed Use Zone.



## **7. ACTIVITY STATUS OF DRIVE-THROUGH RESTAURANTS IN THE GENERAL INDUSTRIAL ZONE**

### Primary submission of Restaurant Brands (349.212, 349.215)

7.1 In its primary submission,<sup>18</sup> Restaurant Brands sought that drive-through restaurants are provided for as a permitted activity within the General Industrial Zone. The reasons for the submission were as follows:

When compared to other commercial activities that are provided for as a permitted activity within the General Industrial Zone (including trade supply retail, building improvement centre, service retail, or yard-based retail), no clear justification or rationale has been provided as to why drive-through restaurant activities cannot be provided for as a permitted activity.

Consistent with the purpose of the General Industrial Zone, drive-through restaurants are compatible with the adverse effects generated from industrial activities and are of a scale and nature that do not undermine the hierarchy of Centres. It is therefore appropriate to provide for drive-through facilities as a permitted activity and to amend the policies of the General Industrial Zone accordingly.

7.2 The s.42A report advises that:<sup>19</sup>

In response to Restaurant Brands [349.215] I agree that drive-through restaurants are compatible activities in the GIZ for the reasons outlined in paragraph 133 of this report. However, as noted above and again at paragraph 133, provision is already made to accommodate such activities via the definition of service retail which amongst other matters, includes takeaway food outlets. Consequently, I am of the view that this extends to include drive-through restaurants and consider that no further amendment to GIZ-R4 is required.

7.3 I agree with the s.42A report in respect of this matter and agree that no further changes are required to GIZ-R4 (now GIZ-R5).

---

<sup>18</sup> 349.212, 349.215

<sup>19</sup> Para. 169; Hearing Stream 4 – General Industrial Zone, Section 42A of the Resource Management Act 1991.

## 8. CROSS-REFERENCES TO THE CENTRES AND MIXED USE DESIGN GUIDE

Primary submissions of Restaurant Brands (349.70, 349.74, 349.95, 349.99, 349.140, 349.161, 349.165, 349.190 349.195, 349.196)

8.1 In its primary submissions,<sup>20</sup> Restaurant Brands sought that all cross-references to the Centres and Mixed Use Design Guide be deleted from the Proposed District Plan. The reasons for Restaurant Brands' submissions was that:

The Centres and Mixed-Use Design Guide (and the associated policy and matters of discretion linkages), do not recognise or provide for the functional or operational requirements of activities.

The Design Guide reads as a set of rules to be complied with, rather than guidelines to inform the assessment of applications for resource consent and will result in an unnecessarily onerous and unreasonable resource consent process.

The Design Guide places unreasonable requirements on applicants on matters that are more appropriately dealt with at a national level (for example, reducing travel/shipping costs of materials to reduce carbon emissions, and installing insulation above minimum requirements). The imposition of "thresholds" for certain types of development result in a "pass/fail" assessment being applied and will result in an unnecessarily onerous and unreasonable resource consent process.

8.2 The submissions of Restaurant Brands have been recommended to be rejected by the s.42A report. Instead, the s.42A report has recommended amendments to the "Quality Design Outcomes" policy (CCZ-P9, MCZ-P7, LCZ-P7, NCZ-P7, MUZ-P6, COMZ-P5) to "require" new development and alterations and additions to existing development to "meet" the requirements of the Centres and Mixed Use Design Guide.

8.3 I disagree with the recommendations of the s.42A report. I am concerned that the "Quality Design Outcomes" policy is now expressed in "pass/fail" terms (specifically, the terms "require" and "meet").

---

<sup>20</sup> 349.70, 349.74, 349.95, 349.99, 349.140, 349.161, 349.165, 349.190 349.195, 349.196

- 8.4 This is particularly problematic when regard is had to the content of the Design Guide, which does not take into account the functional or operational requirements of the activities it is meant to guide, and appears to be mainly focussed on the aesthetic, environmental, and social outcomes of design, rather than the functional needs and practical constraints faced by developers.
- 8.5 While the guidelines address important and relevant issues such as waste management, accessibility, and sustainable materials, they are prescriptive and inflexible, which will lead to a difficult and onerous resource consent process. They are laid out as directives to be followed, rather than as flexible considerations to be taken into account.
- 8.6 For example, provision G97 requires that all development exceeding certain height limits must meet specific points requirements relating to public space, sustainability, and accessibility and the like. This kind of mandatory assessment reads more like a “rule” rather than “guidance”, resulting in a stringent resource consent process.
- 8.7 The thresholds presented for certain types of development have a “pass/fail” characteristic. This approach has over-simplified the assessment process, overlooking the complex and often nuanced realities of development, and potentially making the resource consent process more challenging and rigid than necessary.
- 8.8 The guidelines also seem to place a significant emphasis on sustainability, such as reducing travel/shipping distances and installing insulation over and above minimum requirements. Such goals are imposing requirements on developers that are traditionally managed at the national level, and should be addressed through legislation and broad-scale policy, rather than on a case-by-case basis through the resource consent process.
- 8.9 For example, provision G93 encourages low carbon and carbon banking materials, locally sourced materials, low energy fittings, and superior insulation. Such requirements will impose significant cost

and logistical challenges to some applicants, especially for matters that are better addressed at the national level.

- 8.10 In my opinion, the policy “requirement” for development to “meet” the requirements of the Design Guide will result in limited flexibility, providing applicants with less freedom to come up with solutions to better suit specific needs or circumstances and increased cost and time through a more time-consuming and costly resource consent process.
- 8.11 Without significant amendment, I do not consider to the contents of the Centres and Mixed Use Design Guide and the associated policy cross-references to be an appropriate, efficient, or effective method to achieve a well-functioning urban environment or the wider objectives of the Proposed District Plan.
- 8.12 In my opinion, the references to the Centres and Mixed Use Design Guide can be appropriately deleted from the Proposed District Plan. Details of my recommended changes are appended to this statement of evidence as **Attachment 1**.

**Mark Nicholas Arbuthnot**

**12 June 2023**



Recommended changes contained with s.42A report are shown in ~~strikethrough~~ and underline  
Recommended changes sought by Restaurant Brands are shown in ~~strikethrough~~ and underline

## Contents

City Centre Zone.....	3
Metropolitan Centre Zone .....	9
Local Centre Zone.....	13
Neighbourhood Centre Zone .....	18
Mixed Use Zone .....	24
Commercial Zone .....	25

Recommended changes contained with s.42A report are shown in ~~strikethrough~~ and underline  
 Recommended changes sought by Restaurant Brands are shown in ~~strikethrough~~ and underline

## He Rohe Pokapū Tāone

### City Centre Zone

...

#### Policies

...

<p><b>CCZ-P9</b></p>	<p><b>Quality design outcomes</b></p> <p>Require new development, and alterations and additions to existing development, at a site scale to positively contribute to the sense of place and distinctive form, quality and amenity of the City Centre Zone by:</p> <p><del>1. Meeting the requirements of the Centres and Mixed Use Design Guide;</del></p> <p><u>21.</u> Recognising the benefits of well-designed, comprehensive development, including the extent to which the development:</p> <ul style="list-style-type: none"> <li>a. <del>Acts as a catalyst for future change by reflecting</del> <u>Reflects</u> the nature and scale of the development <del>proposed</del> <u>enabled</u> within the zone <del>and in the vicinity</del> and responds to the evolving, more intensive identity of the neighbourhood;</li> <li>b. Optimises the development capacity of the land, <del>particularly including</del> <u>including</u> sites that are: <del>large, narrow, vacant or ground level parking areas;</del> <ul style="list-style-type: none"> <li><del>i. Large; or</del></li> <li><del>ii. Narrow; or</del></li> <li><del>iii. Vacant; or</del></li> <li><del>iv. Ground level parking areas;</del></li> </ul> </li> <li>c. Provides for the increased levels of residential accommodation anticipated; and</li> <li>d. Provides for a range of supporting business, open space and community facilities; and</li> <li>e. <u>Is accessible for emergency service vehicle; and</u></li> </ul> <p>2. Ensuring that development, where relevant:</p> <ul style="list-style-type: none"> <li>a. Responds to the site context, particularly where it is located adjacent to:           <ul style="list-style-type: none"> <li>i. A scheduled site of significance to Māori;</li> <li>ii. A heritage building, heritage structure or heritage area;</li> <li>iii. An identified character precinct;</li> </ul> </li> </ul>
----------------------	---

Recommended changes contained with s.42A report are shown in ~~strikethrough~~ and underline  
 Recommended changes sought by Restaurant Brands are shown in ~~strikethrough~~ and underline

	<ul style="list-style-type: none"> <li>iv. A listed public space;</li> <li>v. <del>Identified pedestrian streets;</del></li> <li>vi. Residential zones;</li> <li>vii. Open space zones; and</li> <li>viii. The Waterfront Zone;</li> </ul> <p>b. Responds to the pedestrian scale of narrower streets;</p> <p>c. Responds to any identified significant natural hazard risks and climate change effects, including the strengthening and adaptive reuse of existing buildings;</p> <p>d. Provides a safe and comfortable pedestrian environment;</p> <p>e. Enhances the quality of the streetscape and the private/public interface;</p> <p>f. Integrates with existing and planned active and public transport activity movement networks, including planned rapid transit stops; and</p> <p style="margin-left: 40px;">ii. Allows sufficient flexibility for ground floor space to be converted to a range of activities, including residential along streets that are not subject to active frontage and/or verandah coverage requirements <del>and sites free of any identified natural hazard risk.</del></p>
--	--

....

<b>CCZ-P11</b>	<p><b>City outcomes contribution</b></p> <p>Require <del>over and under height, large-scale residential, non-residential and comprehensive</del> developments <u>over CCZ-S1 height thresholds and under CCZ S4 minimum building heights</u> in the City Centre Zone to <del>deliver City Outcomes Contributions as detailed and scored in Appendix 16 the Centres and Mixed Use Design Guide guideline G107,</del> including through either:</p> <ol style="list-style-type: none"> <li>1. Positively contributing to public space provision and the amenity of the site and surrounding area; and/or</li> <li>2. <u>Enabling ease of access for people of all ages and mobility/disability; and/or</u></li> <li>3. <u>Incorporating a level of building performance that leads to reduced carbon emissions and increased climate change <u>earthquake</u> resilience; and/or</u></li> </ol>
----------------	---



Recommended changes contained with s.42A report are shown in ~~strikethrough~~ and underline  
 Recommended changes sought by Restaurant Brands are shown in ~~strikethrough~~ and underline

	<p><del>3- 4.</del> Incorporating construction materials that increase the lifespan and resilience of the development and reduce ongoing maintenance costs; and/or</p> <p><del>4- 5.</del> Incorporating assisted housing into the development; where this is provided, legal instruments are required to ensure that it remains assisted housing for at least 25 years.; <del>and/or</del></p> <p><del>Enabling ease of access for people of all ages and mobility.</del></p>
--	--

...

Rules: Land use activities in the City Centre Zone

...

<b>CCZ-R19</b>	<b>Alterations and additions to buildings and structures</b>
<p>1. Activity status: <b>Permitted</b></p> <p>Where:</p> <ul style="list-style-type: none"> <li>a. Any alterations or additions to a building or structure that:                             <ul style="list-style-type: none"> <li>i. Do not alter the external appearance of the building or structure; or</li> <li>ii. Relate to a building frontage below verandah level, including entranceways and glazing and compliance with CCZ-S8 is achieved; or</li> <li>iii. Do not result in the creation of new residential units; and</li> <li>iv. Are not visible from public spaces; and</li> </ul> </li> </ul> <p>2. Comply with standards CCZ-S1, CCZ-S2, CCZ-S3, CCZ-S4, CCZ-S5, CCZ-S6, CCZ-S7, <del>and</del> CCZ-S8 <u>and CCZ-SX (Fences and standalone walls).</u></p> <p>3. Activity status: <b>Restricted Discretionary</b></p> <p>Where:</p> <ul style="list-style-type: none"> <li>a. Compliance with any of the requirements of CCZ-R19.1 cannot be achieved.</li> </ul> <p>Matters of discretion are:</p> <ul style="list-style-type: none"> <li>4. The matters in CCZ-P4, CCZ-P5, CCZ-P6, CCZ-P7, CCZ-P8 CCZ-P9, CCZ-P10, CCZ-P11 and CCZ-P12;</li> <li>5. The extent and effect of non-compliance with <del>CCZ-S1</del>, CCZ-S2, CCZ-S3, CCZ-S4, CCZ-S5, CCZ-S6, CCZ-S7, CCZ-S8, CCZ-S9, CCZ-S10, CCZ-S11, CCZ-S12 and CCZ-S13 , <del>and</del> CCZ-S13, <u>CCZ-SX (Fences and standalone walls), CCZ-SX (Boundary setback from a rail corridor) and CCZ-SX (Sites adjoining residential zones);</u></li> <li>6. Construction impacts on the transport network; <u>and</u></li> <li>7. <del>The Centres and Mixed Use Design Guide, including guideline G107 – City Outcomes Contribution as required in Appendix 16 for any building that exceeds the maximum CCZ-S1 height threshold requirement or is under the minimum height limit, and either comprises 50 or more residential units or is a non-residential building; and</del></li> <li>8. <del>The Residential Design Guide.</del></li> </ul> <p>Notification status:</p> <p><u>An application for resource consent made in respect of rule CCZ-R19.2.a that complies with</u></p>	

Recommended changes contained with s.42A report are shown in ~~strikethrough~~ and underline

Recommended changes sought by Restaurant Brands are shown in ~~strikethrough~~ and underline

all standards is precluded from being either publicly or limited notified.

An application for resource consent made in respect of rule CCZ-R19.2.a which results in non-compliance with CCZ-S5, CCZ-S9, CCZ-S10, CCZ-S11, CCZ-S12 and CCZ-S13 is precluded from being either publicly or limited notified.

An application for resource consent made in respect of rule CCZ-R19.2.a which results in non-compliance with CCZ-S1, CCZ-S2, CCZ-S3, CCZ-S4, CCZ-S6, CCZ-S7 and CCZ-S8 is precluded from being publicly notified.

...

CCZ-R20	Construction of buildings and structures
<p>1. Activity status: <b>Permitted</b></p> <p>Where:</p> <ol style="list-style-type: none"> <li>a. It involves the construction of any new building or structure that:               <ol style="list-style-type: none"> <li>i. Will have a gross floor area of 100m<sup>2</sup> or less; and</li> <li>ii. Will result in a building coverage of no more than 20 percent; and</li> </ol> </li> <li>b. Compliance with CCZ-S1, CCZ-S2, CCZ-S3, CCZ-S4, CCZ-S5, CCZ-S6, CCZ-S7, CCZ-S8, CCZ-S9, CCZ-S10, CCZ-S11, CCZ-S12, <del>and</del> CCZ-S13, <u>CCZ-SX (Fences and standalone walls), CCZ-SX (Boundary setback from a rail corridor) and CCZ-SX (Sites adjoining residential zones)</u> is achieved.</li> </ol> <p>2. Activity status: <b>Restricted Discretionary</b></p> <p>Where:</p> <ol style="list-style-type: none"> <li>a. Compliance with any of the requirements of CCZ-R20.1, excluding CCZ-S4, cannot be achieved.</li> </ol> <p>Matters of discretion are:</p> <ol style="list-style-type: none"> <li>1. The matters in CCZ-P4, CCZ-P5, CCZ-P6, CCZ-P7, CCZ-P8, CCZ-P9, CCZ-P10, CCZ-P11 and CCZ-P12;</li> <li>2. The extent and effect of non-compliance with <del>CCZ-S1</del>, CCZ-S2, CCZ-S3, CCZ-S5, CCZ-S6, CCZ-S7, CCZ-S8, CCZ-S9, CCZ-S10, CCZ-S11, CCZ-S12, <del>and</del> CCZ-S13, <u>CCZ-SX (Fences and standalone walls), CCZ-SX (Boundary setback from a rail corridor) and CCZ-SX (Sites adjoining residential zones)</u>;</li> <li>3. <del>The Centres and Mixed Use Design Guide, including guideline G107 – City Outcomes Contribution as required in Appendix 16 for any building that exceeds the maximum CCZ-S1 height threshold requirement or is under the minimum height limit in CCZ-S4 and either comprises 50 or more residential units or is a non-residential building;</del></li> <li>4. <u>The Residential Design Guide;</u></li> <li>5. The extent and effect of any identifiable site constraints;</li> <li>6. The impacts of related construction activities on the transport network; and</li> <li>7. The availability and connection to existing or planned three waters infrastructure.</li> </ol> <p>Notification status:</p> <p><u>An application for resource consent made in respect of rule CCZ-R20.2.a which complies with</u></p>	

Recommended changes contained with s.42A report are shown in ~~strikethrough~~ and underline  
 Recommended changes sought by Restaurant Brands are shown in ~~strikethrough~~ and underline

~~all standards is precluded from being either publicly or limited notified.~~

An application for resource consent made in respect of rule R20.2.a which results in non-compliance with CCZ-S5, CCZ-S9, CCZ-S10, CCZ-S11, CCZ-S12 and CCZ-S13 is precluded from being either publicly or limited notified.

An application for resource consent made in respect of rule R20.2.a which results from non-compliance with CCZ-S1, CCZ-S2, CCZ-S3, CCZ-S6, CCZ-S7 and CCZ-S8 is precluded from being publicly notified.

3. Activity status: **Discretionary**

Where:

- a. Compliance with the requirements of CCZ-S4 cannot be achieved.

Notification status: An application for resource consent made in respect of rule CCZ- R20.3 which results in non-compliance with CCZ-S4 is precluded from being either publicly or limited notified.

...

Standards

...

<b>CCZ-S4</b>	<b>Minimum building height</b>	
<p><del>1. A minimum height of 22m is required for new buildings or structures.</del></p> <p><del>This standard does not apply to:</del></p> <p><del>1. Any site adjoining a site located within a character precinct or Residentially Zoned Heritage Area and thus subject to CCZ-S3; and</del></p> <p><del>2. Any site within the Te Ngakau Civic Square Precinct.</del></p>	<p><del>Assessment criteria where the standard is infringed:</del></p> <p><del>1. The extent to which a reduced height is necessary to provide for the functional needs or operational needs of a proposed activity; and</del></p> <p><del>2. Whether topographical or other site constraints make compliance with the standard impracticable or unnecessary.</del></p>	
<b>CCZ-S5</b>	<b>Minimum ground floor height</b>	
<p>1. <u>On those sites subject to active frontage and/or verandah coverage requirements on the Planning Maps, the</u> minimum ground floor height to <u>the</u> underside of <u>a</u> structural slab or equivalent shall be 4m.</p>	<p>Assessment criteria where the standard is infringed:</p> <p>1. The extent to which a reduced height:</p> <p>a. Will compromise or prejudice future use or adaptation of the ground floor for non-residential activities; and</p> <p>b. Is necessary to provide for functional needs of a proposed activity; and</p> <p>2. Whether topographical or other site</p>	

Recommended changes contained with s.42A report are shown in ~~strikethrough~~ and underline  
Recommended changes sought by Restaurant Brands are shown in ~~strikethrough~~ and underline

	constraints make compliance with the standard impracticable or unnecessary.
--	---

...

Recommended changes contained with s.42A report are shown in ~~strikethrough~~ and underline  
 Recommended changes sought by Restaurant Brands are shown in ~~strikethrough~~ and underline

## He Rohe Paetata Tāone

### Metropolitan Centre Zone

...

#### Introduction

...

High quality building design is a focus for these centres. The transition to more intensive use in metropolitan centres will result in significant changes to existing amenity values and design in the centres and their surrounds. Redevelopment will be supported by a range of measures to promote good design and environmental outcomes and address amenity issues. ~~Accordingly, most building activities will require a resource consent and an assessment against the Centres and Mixed Use Design Guide.~~

...

#### Policies

...

<p><b>MCZ-P7</b></p>	<p><b>Quality design outcomes — <del>neighbourhood and townscape outcomes</del></b></p> <p>Require new development, and alterations and additions to existing development at a site scale, to positively contribute to the sense of place, quality and amenity of the Metropolitan Centre Zone by:</p> <ol style="list-style-type: none"> <li><del>1. Meeting the requirements of the Centres and Mixed Use Design Guide as relevant;</del></li> <li>2. <del>1.</del> Recognising the benefits of well-designed, comprehensive, development, including the extent to which the development:             <ol style="list-style-type: none"> <li>a. <del>Acts as a positive catalyst for future change by reflecting</del> <u>Reflects</u> the nature and scale of the development <del>proposed</del> <u>enabled</u> within the zone <del>and in the vicinity,</del> and responds to the evolving, more intensive identity of the centre;</li> <li>b. Optimises the development capacity of the land, <del>particularly including</del> <u>including</u> sites that are: <del>large, narrow, vacant or ground level parking areas;</del> <ol style="list-style-type: none"> <li><del>i. Large; or</del></li> <li><del>ii. Narrow; or</del></li> <li><del>iii. Vacant; or</del></li> <li><del>iv. Ground level parking areas;</del></li> </ol> </li> <li>c. Provides for the increased levels of residential accommodation enabled in this zone; and</li> <li>d. Provides for a range of supporting business, open space and community facilities;</li> <li>e. <u>Is accessible for emergency service vehicles.</u></li> </ol> </li> <li>3. <del>2.</del> Ensuring that the development, where relevant:</li> </ol>
----------------------	---

Recommended changes contained with s.42A report are shown in ~~strikethrough~~ and underline  
 Recommended changes sought by Restaurant Brands are shown in ~~strikethrough~~ and underline

	<ul style="list-style-type: none"> <li>a. Responds to the site context, particularly where it is located adjacent to:                             <ul style="list-style-type: none"> <li>i. A scheduled site of significance to tangata whenua or other Māori;</li> <li>ii. A heritage building, heritage structure or heritage area;</li> <li>iii. Residential zoned areas;</li> <li>iv. Open space zoned areas;</li> </ul> </li> <li>b. Provides a safe and comfortable pedestrian environment;</li> <li>c. Enhances the quality of the streetscape and public / private interface;</li> <li>d. Integrates with existing and planned active and public transport movement networks; and</li> <li>b. Allows sufficient flexibility for ground floor space to be converted for a range of activities, including residential.</li> </ul>
<p><b>MCZ-P10</b></p>	<p><b>City outcomes contribution</b></p> <p>Require over height, <del>large-scale residential, non-residential and comprehensive</del> development in the Metropolitan Centre Zone to <del>deliver City Outcomes Contributions as detailed and scored in Appendix 16 the Centres and Mixed Use Design Guide guideline G107, including through either:</del></p> <ul style="list-style-type: none"> <li>1. Positively contributing to public space provision and the amenity of the site and surrounding area; and/or</li> <li>2. <u>Enabling ease of access for people of all ages and mobility; and/or</u></li> <li>3. <del>2.3. Incorporating a level of building performance that leads to reduced carbon emissions and increased climate change resilience; and/or</del></li> <li>4. <del>3.4.</del> Incorporating construction materials that increase the lifespan and resilience of the development and reduce ongoing maintenance costs; and/or</li> <li>5. <del>4.5.</del> Incorporating assisted housing into the development; where this is provided, legal instruments are required to ensure that it remains assisted housing for at least 25 years; and/or</li> <li>6. <del>Enabling ease of access for people of all ages and mobility.</del></li> </ul>

...

Rules: Land use activities

...

<p><b>MCZ-R20</b></p>	<p><b>Construction of, or additions and alterations to, buildings and structures</b></p>
-----------------------	--

Recommended changes contained with s.42A report are shown in ~~strikethrough~~ and underline  
 Recommended changes sought by Restaurant Brands are shown in ~~strikethrough~~ and underline

1.	<p>2. Activity status: <b>Permitted</b></p> <p>Where:</p> <ul style="list-style-type: none"> <li>a. Any alterations or additions to a building or structure that:           <ul style="list-style-type: none"> <li>i. Do not alter the external appearance of the building or structure; or</li> <li>ii. Relate to a building frontage below verandah level, including entranceways and glazing and compliance with MCZ-S5 is achieved; or</li> <li>iii. Do not result in the creation of new residential units; and</li> <li>iv. Are not visible from public spaces; and</li> <li>v. Comply with standards MCZ-S1, MCZ-S2, MCZ-S3, MCZ-S4, MCZ-S5, <del>and</del> MCZ-S6 <u>and MCZ-SX (Boundary setback from rail corridor)</u>; and</li> </ul> </li> <li>b. The construction of any building or structure:           <ul style="list-style-type: none"> <li>i. Is not located on a site with an active frontage or non-residential activity frontage; or</li> <li>ii. Is not visible from public space; and</li> <li>iii. Will have a gross floor area of less than 100m<sup>2</sup>; and</li> <li>iv. Will result in a total coverage (together with other buildings) of no more than 20 percent of the site; and</li> <li>v. <del>Will c</del>Comply with standards MCZ-S1, MCZ-S2, MCZ-S3, MCZ-S4, MCZ-S5, <del>and</del> MCZ-S6 <u>and MCZ-SX (Boundary setback from rail corridor)</u>; and</li> <li>vi. Does not involve the construction of a new building for residential activities.</li> </ul> </li> </ul>
2.	<p>3. Activity status: <b>Restricted Discretionary</b></p> <p>Where:</p> <ul style="list-style-type: none"> <li>a. compliance with any of the requirements of <del>MCZ-R19.1</del><u>MCZ-R20.1</u> cannot be achieved.</li> </ul> <p>Matters of discretion are:</p> <ul style="list-style-type: none"> <li>1. The matters in MCZ-P6, MCZ-P7, MCZ-P8 and MCZ-P9;</li> <li>2. The extent and effect of non-compliance with MCZ-S1, MCZ-S2, MCZ-S3, MCZ-S4, MCZ-S5, MCZ-S6, MCZ-S7, MCZ-S8, MCZ-S9, MCZ-S10, <del>and</del> MCZ-S11 <u>and MCZ-SX (Boundary setback from rail corridor)</u>;</li> <li>3. <u>City Outcomes Contribution for The Centres and Mixed-Use Design Guide, including guideline G107—City Outcomes Contribution as required in Appendix 16 for any building that exceeds the maximum height requirement and either comprises 25 or more residential units or is a non-residential building;</u></li> <li>4. <del>The Residential Design Guide;</del></li> <li>5. <del>3-4</del> The extent and effect of any identifiable site constraints;</li> <li>4. <del>4-5</del> Construction impacts on the transport network; and</li> <li>5. <del>5-6</del> The availability and connection to existing or planned three waters infrastructure.</li> </ul> <p>Notification status:</p> <p><u>An application for resource consent made in respect of rule MCZ-R20.2.a that complies with all standards is precluded from being either publicly or limited notified.</u></p>

Recommended changes contained with s.42A report are shown in ~~strikethrough~~ and underline  
 Recommended changes sought by Restaurant Brands are shown in ~~strikethrough~~ and underline

	<p><del>Notification status:</del> An application for resource consent made in respect of rule MCZ-R20.2 which complies with MCZ-S3, MCZ-S7, MCZ-S8, MCZ-S9, MCZ-S10 and MCZ-S11 is precluded from being either publicly or limited notified.</p> <p><del>Notification status:</del> An application for resource consent made in respect of rule MCZ-R20.2 which results from non-compliance with MCZ-S1, MCZ-S2, MCZ-S4, MCZ-S5 and MCZ-S6 is precluded from being publicly notified.</p>
--	--

...

Standards

...

<b>MCZ-S2</b>	<b>Minimum building height</b>	
<p><del>1. A minimum height of 7m is required for:</del>  <del>a. New buildings or structures; and</del>  <del>b. Additions to the frontages of existing buildings and structures.</del></p> <p><del>This standard does not apply to:</del></p> <p><del>1. Accessory buildings, ancillary to the primary activity on the site.</del>  <del>2. Any building or structure that is unable to be occupied by people.</del></p>		<p>Assessment criteria where the standard is infringed;</p> <p><del>1. The extent to which a reduced height:</del>  <del>a. Is necessary to provide for functional needs or operational needs of a proposed activity;</del>  <del>2. Whether topographical or other site constraints make compliance with the standard impracticable or unnecessary; and</del>  <del>3. Whether, for any additions or alterations, the existing ground floor height meets the standard.</del></p>
<b>MCZ-S3</b>	<b>Minimum ground floor height</b>	
<p><del>1. On those sites subject to active frontage and/or verandah coverage requirements on the Planning Maps, <u>the</u> minimum ground floor height to <u>the</u> underside of <u>a</u> structural slab or equivalent shall be 4m.</del></p>		<p>Assessment criteria where the standard is infringed:</p> <p><del>3. The extent to which a reduced height:</del>  <del>a. Will compromise or prejudice future use or adaptation of the ground floor for non-residential activities; and</del>  <del>b. Is necessary to provide for functional needs of a proposed activity; and</del>  <del>4. Whether topographical or other site constraints make compliance with the standard impracticable or unnecessary.</del></p>

...



Recommended changes contained with s.42A report are shown in ~~strikethrough~~ and underline  
Recommended changes sought by Restaurant Brands are shown in ~~strikethrough~~ and underline

## He Rohe Pokapū Haukāinga

### Local Centre Zone

#### Introduction

...

High quality building design is a focus for the Local Centres Zone. The transition to more intensive use in some local centres will result in changes to existing amenity values in the centres and their surrounds. Consequently, redevelopment will be supported by a range of measures to promote good design and environmental outcomes, and address amenity issues. ~~Accordingly, most building activities will require a resource consent and an assessment against the Centres and Mixed Use Design Guide. To enable intensification around existing neighbourhood centres, some of these will have substantial building heights.~~

...

#### Policies

...

[continues over]

Recommended changes contained with s.42A report are shown in ~~strikethrough~~ and underline  
 Recommended changes sought by Restaurant Brands are shown in ~~strikethrough~~ and underline

<p>LCZ-P7</p>	<p><b>Quality design outcomes —<del>neighbourhood and townscape outcomes</del></b></p> <p>Require new development, and alterations and additions to existing development at a site scale, to positively contribute to the sense of place, quality and amenity of the Local Centre Zone by:</p> <ol style="list-style-type: none"> <li><del>1. Meeting the requirements of the Centres and Mixed Use Design Guide as relevant;</del></li> <li>2. <del>1.</del> Recognising the benefits of well-designed, comprehensive development, including the extent to which the development:       <ol style="list-style-type: none"> <li>a. <del>Acts as a positive catalyst for future change by reflecting</del><u>Reflects</u> the nature and scale of the development <del>proposed</del><u>enabled</u> within the zone <del>and in the vicinity</del> and responds to the evolving, more intensive identity of the neighbourhood;</li> <li>b. Optimises the development capacity of land <del>., particularly sites that are:</del> <ol style="list-style-type: none"> <li>i. Large; or</li> <li>ii. <del>Narrow; or</del></li> <li>iii. <del>Vacant; or</del></li> <li>iv. <del>Ground level parking areas;</del></li> </ol> </li> <li>c. Provides for the increased levels of residential accommodation enabled in this zone; and</li> <li>d. Provides for a range of supporting business, open space and community facilities; <del>and</del></li> <li>e. <u>Is accessible for emergency service vehicles.</u></li> </ol> </li> <li>3. <del>2.</del> Ensuring that the development, where relevant:       <ol style="list-style-type: none"> <li>a. Responds to the site context, particularly where it is located adjacent to:           <ol style="list-style-type: none"> <li>i. A scheduled site of significance to tangata whenua or other Māori;</li> <li>ii. Heritage buildings, heritage structures and heritage areas;</li> <li>iii. An identified character precinct;</li> <li>iv. Residential zoned areas;</li> <li>v. Open space zoned areas;</li> </ol> </li> <li>b. Provides a safe and comfortable pedestrian environment;</li> <li>c. Enhances the quality of the streetscape and public / private interface;</li> <li>d. Integrates with existing and planned active and public transport movement networks, including planned rapid transit stops; and</li> <li>e. Allows sufficient flexibility for ground floor space to be converted for a range of activities, including residential.</li> </ol> </li> </ol>
---------------	---

...

Recommended changes contained with s.42A report are shown in ~~strikethrough~~ and underline  
 Recommended changes sought by Restaurant Brands are shown in ~~strikethrough~~ and underline

<b>LCZ-P10</b>	<p><b>City outcomes contribution</b></p> <p>Require over height, <del>large-scale residential, non-residential and comprehensive</del> development in the Local Centre Zone to <del>deliver City Outcomes Contributions as detailed and scored in Appendix 16 the Centres and Mixed Use Design Guide guideline G107, including through either:</del></p> <ol style="list-style-type: none"> <li>1. Positively contributing to public space provision and the amenity of the site and surrounding area; and/or</li> <li>2. <u>Enabling ease of access for people of all ages and mobility; and/or</u></li> <li>3. <del>3. Incorporating a level of building performance that leads to reduced carbon emissions and increased climate change resilience; and/or</del></li> <li>4. <u>4.</u> Incorporating construction materials that increase the lifespan and resilience of the development and reduce ongoing maintenance costs; and/or</li> <li>5. <u>5.</u> Incorporating assisted housing into the development; where this is provided, legal instruments are required to ensure that it remains assisted housing for at least 25 years. <del>; and/or</del></li> <li>6. <del>Enabling ease of access for people of all ages and mobility.</del></li> </ol>
----------------	---

...

Rules: Land use activities

...

<b>LCZ-R18</b>	<b>Construction of, or additions and alterations to, buildings and structures</b>
<p>1. Activity status: <b>Permitted</b></p> <p>Where:</p> <ol style="list-style-type: none"> <li>a. Any alterations or additions to a building or structure:             <ol style="list-style-type: none"> <li>i. Do not alter the external appearance of the building or structure; or</li> <li>ii. Relate to a building frontage below verandah level, including entranceways and glazing and compliance with LCZ-S5; or</li> <li>iii. Do not result in the creation of new residential units; and</li> <li>iv. Are not visible from public spaces; and</li> <li>v. Comply with effects standards LCZ-S1, LCZ-S2, LCZ-S3, LCZ-S4, LCZ-S5, <del>and LCZ-S6., and LCZ-SX (Boundary setback from a rail corridor).</del></li> </ol> </li> <li>b. The construction of any building or structure:             <ol style="list-style-type: none"> <li>i. Is not located on a site with an active frontage or non-residential activity frontage; or</li> <li>ii. Is not visible from a public space; and</li> <li>iii. Will have a gross floor area of less than 100m<sup>2</sup>; and</li> </ol> </li> </ol>	

Recommended changes contained with s.42A report are shown in ~~strikethrough~~ and underline  
 Recommended changes sought by Restaurant Brands are shown in ~~strikethrough~~ and underline

<ul style="list-style-type: none"> <li>iv. Will result in a total coverage (together with other buildings) of no more than 20 percent of the site; and</li> <li>v. Comply with effects standards LCZ-S1, LCZ-S2, LCZ-S3, LCZ-S4, LCZ-S5 and LCZ-S6; and <u>LCZ-SX (Boundary setback from a rail corridor); and</u></li> <li>vi. Does not involve the construction of a new building for residential activities</li> </ul>
<p>1. Activity status: <b>Restricted Discretionary</b></p> <p>Where:</p> <ul style="list-style-type: none"> <li>a. Compliance with any of the requirements of LCZ-R18.1 cannot be achieved.</li> </ul> <p>Matters of discretion are:</p> <ul style="list-style-type: none"> <li>1. The matters in LCZ-P6, LCZ-P7, LCZ-P8, LCZ-P9 and LCZ-P10;</li> <li>2. The extent and effect of non-compliance with LCZ-S1, LCZ-S2, LCZ-S3, LCZ-S4, LCZ-S5, LCZ-S6, LCZ-S7, LCZ-S8, LCZ-S9, LCZ-S10, <del>and</del> LCZ-S11 <u>and LCZ-SX (Boundary setback from a rail corridor);</u></li> <li><del>3. City Outcomes Contribution as required in Appendix 16 The Centres and Mixed Use Design Guide, including guideline G107 – City Outcomes Contribution for any building that exceeds the maximum height requirement and either comprises 25 or more residential units or is a non-residential building;</del></li> <li>4. <del>The Residential Design Guide;</del></li> <li>4. <del>3.</del> The extent and effect of any identifiable site constraints;</li> <li>5. <del>4.</del> Construction impacts on the transport network; and</li> <li>6. <del>5.</del> The availability and connection to existing or planned three waters infrastructure.</li> </ul> <p>Notification status:</p> <p><u>An application for resource consent made in respect of rule LCZ-R18.2.a that complies with all standards is precluded from being either publicly or limited notified.</u></p> <p>An application for resource consent made in respect of rule LCZ-R18.2.a that complies with LCZ-S3, LCZ-S7, LCZ-S8, LCZ-S9, LCZ-S10 and LCZ-S11 is precluded from being either publicly or limited notified.</p> <p>An application for resource consent made in respect of rule LCZ-R18.2.a that results from non-compliance with LCZ-S1, LCZ-S2, LCZ-S4, LCZ-S5 and LCZ-S6 is precluded from being publicly notified.</p>

...

Standards

...

<b>LCZ-S2</b>	<b>Minimum building height</b>
---------------	--------------------------------

Recommended changes contained with s.42A report are shown in ~~strikethrough~~ and underline  
 Recommended changes sought by Restaurant Brands are shown in ~~strikethrough~~ and underline

<p><del>1. A minimum height of 7m is required for:</del></p> <p><del>a. New buildings or structures; and</del>  <del>b. Additions to the frontages of existing buildings and structures.</del></p> <p><del>This standard does not apply to:</del></p> <p><del>1. Accessory buildings, ancillary to the primary activity on the site.</del>  <del>2. Any building or structure that is unable to be occupied by people.</del></p>	<p><del>Assessment criteria where the standard is infringed;</del></p> <p><del>1. The extent to which a reduced height:</del></p> <p><del>a. Is necessary to provide for the functional needs or operational needs of a proposed activity;</del>  <del>2. Whether topographical or other site constraints make compliance with the standard impracticable or unnecessary; and</del>  <del>3. Whether, for any additions or alterations, the existing ground floor height meets the standard.</del></p>
<p><b>LCZ-S3</b></p>	<p><b>Minimum ground floor height</b></p>
<p>1. <u>On those sites subject to active frontage and/or verandah coverage requirements on the Planning Maps,</u> <del>the</del> minimum ground floor height to underside of structural slab or equivalent shall be 4m.</p>	<p>Assessment criteria where the standard is infringed:</p> <p>1. The extent to which a reduced height:</p> <p>a. Will compromise or preclude future use or adaptation of the ground floor for non-residential activities;              b. Is necessary to provide for the functional needs or operational needs of a proposed activity; and</p> <p>2. Whether topographical or other site constraints make compliance with the standard impracticable or unnecessary.</p>

...

Recommended changes contained with s.42A report are shown in ~~strikethrough~~ and underline  
Recommended changes sought by Restaurant Brands are shown in ~~strikethrough~~ and underline

## He Rohe Pokapū Paekiritata

### Neighbourhood Centre Zone

#### Introduction

...

High quality building design is a focus for the Neighbourhood Centres Zone. The transition to more intensive use in some neighbourhood centres will result in changes to existing amenity values in the centres and their surrounds. Consequently, redevelopment will be supported by a range of measures to promote good design and environmental outcomes, and address amenity issues. ~~Accordingly, most building activities will require a resource consent and an assessment against the Centres and Mixed Use Design Guide.~~ To enable intensification around existing neighbourhood centres, some of these will have increased building heights.

....

#### Policies

...

[continues over]

Recommended changes contained with s.42A report are shown in ~~strikethrough~~ and underline  
 Recommended changes sought by Restaurant Brands are shown in ~~strikethrough~~ and underline

<p>NCZ-P7</p>	<p><b>Quality design –<del>neighbourhood and townscape outcomes</del></b></p> <p>Require new development, and alterations and additions to existing development at a site scale, to positively contribute to the sense of place, quality and amenity of the Neighbourhood Centre Zone by:</p> <p><del>1. Meeting the requirements of the Centres and Mixed Use Design Guide as relevant;</del></p> <p>2. <del>1.</del> Recognising the benefits of well-designed, comprehensive development, including the extent to which the development:</p> <ul style="list-style-type: none"> <li>a. <del>Acts as a positive catalyst for future change by reflecting</del> <u>Reflects</u> the nature and scale of the development <del>proposed</del> <u>enabled</u> within the zone <del>and in the vicinity</del>, and responds to the evolving, more intensive identity of the neighbourhood;</li> <li>b. Optimises the development capacity of land <del>, particularly sites that are:</del> <ul style="list-style-type: none"> <li>i. <del>Large; or</del></li> <li>ii. <del>Narrow; or</del></li> <li>iii. <del>Vacant; or</del></li> <li>iv. <del>Ground level parking areas;</del></li> </ul> </li> <li>c. Provides for the increased levels of residential accommodation enabled in this zone; and</li> <li>d. Provides for a range of supporting business, open space and community facilities;</li> <li>e. <u>Is accessible for emergency service vehicles.</u></li> </ul> <p>3. <del>2.</del> Ensuring that the development, where relevant:</p> <ul style="list-style-type: none"> <li>a. Responds to the site context, particularly where it is located adjacent to: <ul style="list-style-type: none"> <li>i. A scheduled site of significance to tangata whenua or other Māori; or</li> <li>ii. Heritage buildings, heritage structures and heritage areas; or</li> <li>iii. An identified character precinct; or</li> <li>iv. Residential zoned areas; or</li> <li>v. Open space and recreation zoned areas;</li> </ul> </li> <li>b. Provides a safe and comfortable pedestrian environment;</li> <li>c. Enhances the quality of the streetscape and public / private interface;</li> <li>d. Integrates with existing and planned active and public transport movement networks, including planned rapid transit stops; and</li> <li>e. Allows sufficient flexibility for ground floor space to be converted for a range of activities, including residential.</li> </ul>
---------------	--

...

Recommended changes contained with s.42A report are shown in ~~strikethrough~~ and underline  
 Recommended changes sought by Restaurant Brands are shown in ~~strikethrough~~ and underline

<p><b>NCZ-P10</b></p>	<p><b>City outcomes contribution</b></p> <p>Require over height, <del>large-scale residential, non-residential and comprehensive</del> development in the Neighbourhood Centre Zone to <u>deliver City Outcomes Contributions as detailed and scored in Appendix 16 the Centres and Mixed Use Design Guide guideline G107, including through either:</u></p> <ol style="list-style-type: none"> <li>1. Positively contributing to public space provision and the amenity of the site and surrounding area; and/or</li> <li>2. <u>Enabling ease of access for people of all ages and mobility; and/or</u></li> <li>3. <del>2.</del> Incorporating a level of building performance that leads to reduced carbon emissions and increased climate change resilience; and/or</li> <li>4. <del>3.</del> Incorporating construction materials that increase the lifespan and resilience of the development and reduce ongoing maintenance costs; and/or</li> <li>5. <del>4.</del> Incorporating assisted housing into the development; where this is provided, legal instruments are required to ensure that it remains assisted housing for at least 25 years. <del>;- and/or</del></li> <li>6. <del>Enabling ease of access for people of all ages and mobility.</del></li> </ol>
-----------------------	--

...

[continues over]



Recommended changes contained with s.42A report are shown in ~~strikethrough~~ and underline  
 Recommended changes sought by Restaurant Brands are shown in ~~strikethrough~~ and underline

Rules: Land use activities

...

<b>NCZ-R18</b>	<b>Construction of, or additions and alterations to, buildings and structures</b>
<p>1. Activity status: <b>Permitted</b></p> <p>Where:</p> <ul style="list-style-type: none"> <li>a. Alterations or additions to a building or structure:           <ul style="list-style-type: none"> <li>i. Do not alter the external appearance of the building or structure; or</li> <li>ii. Relate to a building frontage below verandah level, including entranceways and glazing and compliance with NCZ-S5 is achieved; or</li> <li>iii. Do not result in the creation of new residential units; and</li> <li>iv. Are not visible from public spaces; and</li> <li>v. Comply with effects standards NCZ-S1, NCZ-S2, NCZ-S3, NCZ-S4, NCZ-S5 and NCZ-S6; and</li> </ul> </li> <li>b. The construction of any building or structure:           <ul style="list-style-type: none"> <li>i. Is not located on a site with an active frontage or non-residential activity frontage; or</li> <li>ii. Is not visible from a public space; and</li> <li>iii. Will have a gross floor area of less than 100m<sup>2</sup>; and</li> <li>iv. Will result in a total coverage (together with other buildings) of no more than 20 percent of the site; and</li> <li>v. Comply with effects standards NCZ-S1, NCZ-S2, NCZ-S3, NCZ-S4, NCZ-S5 and NCZ-S6; and</li> <li>vi. Does not involve the construction of a new building for residential activities.</li> </ul> </li> </ul>	

Recommended changes contained with s.42A report are shown in ~~strikethrough~~ and underline  
 Recommended changes sought by Restaurant Brands are shown in ~~strikethrough~~ and underline

2. Activity status: **Restricted Discretionary**

Where:

a. Compliance with any of the requirements of NCZ-R18.1 cannot be achieved.

Matters of discretion are:

1. The matters in NCZ-P6, NCZ-P7, NCZ-P8, NCZ-P9 and NCZ-P10.
2. The extent and effect of non-compliance with any relevant standard as specified in the associated assessment criteria for the infringed standard;
- ~~3. City Outcomes Contribution as required in Appendix 16 for The Centres and Mixed Use Design Guide, including guideline G107 – City Outcomes Contribution for any building that exceeds the maximum height requirement at Ngaio, Berhampore and Aro Valley centres; and either comprises 25 or more residential units or is a non-residential building;~~
- ~~4. The Residential Design Guide;~~
4. The extent and effect of any identifiable site constraints;
5. Construction impacts on the transport network; and
6. The availability and connection to existing or planned three waters infrastructure.

Notification status:

An application for resource consent made in respect of rule NCZ-R18.2.a that complies with all standards is precluded from being either publicly or limited notified.

An application for resource consent made in respect of rule NCZ-R18.2.a that complies with both NCZ-S3, NCZ-S7, NCZ-S8, NCZ-S9, NCZ-S10 and NCZ-S11 is precluded from being either publicly or limited notified.

An application for resource consent made in respect of rule NCZ-R18.2.a that results from non-compliance with NCZ-S1, NCZ-S2, NCZ-S4, NCZ-S5 and NCZ-S6 is precluded from being publicly notified.

...

Standards

...

...

<b>NCZ-S2</b>	<b>Minimum building height</b>
---------------	--------------------------------

Recommended changes contained with s.42A report are shown in ~~strikethrough~~ and underline  
 Recommended changes sought by Restaurant Brands are shown in ~~strikethrough~~ and underline

<p><del>1. A minimum height of 7m is required for:</del></p> <p><del>a. New buildings or structures; and</del>  <del>b. Additions to the frontages of existing buildings and structures.</del></p> <p><del><u>This standard does not apply to:</u></del></p> <p><del>1. <u>Accessory buildings, ancillary to the primary activity on the site.</u></del>  <del>2. <u>Any building or structure that is unable to be occupied by people.</u></del></p>	<p><del>Assessment criteria where the standard is infringed;</del></p> <p><del>1. The extent to which a reduced height:</del></p> <p><del>a. Is necessary to provide for the functional needs or operational needs of a proposed activity;</del>  <del>2. Whether topographical or other site constraints make compliance with the standard impracticable or unnecessary; and</del>  <del>3. Whether, for any additions or alterations, the existing ground floor height meets the standard.</del></p>
<p><b>NCZ-S3</b></p>	<p><b>Minimum ground floor height</b></p>
<p>1. <u>On those sites subject to active frontage and/or verandah coverage requirements on the Planning Maps,</u> <del>the</del> minimum ground floor height to underside of structural slab or equivalent shall be 4m.</p>	<p>Assessment criteria where the standard is infringed:</p> <p>1. The extent to which a reduced height:</p> <p>a. Will compromise or preclude future use or adaptation of the ground floor for non-residential activities;              b. Is necessary to provide for the functional needs or operational needs of a proposed activity; and</p> <p>2. Whether topographical or other site constraints make compliance with the standard impracticable or unnecessary.</p>

...

Recommended changes contained with s.42A report are shown in ~~strikethrough~~ and underline  
 Recommended changes sought by Restaurant Brands are shown in ~~strikethrough~~ and underline

**He Rohe Whakamahinga Rau**

**Mixed Use Zone**

...

Policies

...

<b>MUZ-P6</b>	<p><b>Design of new development</b></p> <p>Encourage a high standard of built form and amenity while,;</p> <ul style="list-style-type: none"> <li>a. <del>E</del>enabling innovation and choice in the design of new built development to reflect the diverse neighbourhood context of the Mixed Use Zone.; <u>and</u></li> <li>b. <del>Meeting the intentions of the Centres and Mixed Use Design Guide as relevant.</del></li> </ul>
---------------	--

...

Standards

...

<b>MUZ-S4</b>	<b>Minimum ground floor height</b>	
	<ul style="list-style-type: none"> <li>1. <u>On those sites subject to active frontage and/or verandah coverage requirements on the Planning Maps, <del>T</del>the minimum ground floor height to underside of structural slab or equivalent shall be 4m.</u></li> </ul>	<p>Assessment criteria where the standard is infringed:</p> <ul style="list-style-type: none"> <li>1. The extent to which a reduced height:                             <ul style="list-style-type: none"> <li>a. Will compromise or preclude future alternative ground floor uses;</li> <li>b. Is necessary to provide for functional needs or operational needs of a proposed activity;</li> </ul> </li> <li>2. Whether topographical or other site constraints make compliance with the standard impracticable or unnecessary;</li> <li>3. The extent to which the ground floor level will be able to be used or adapted for future non-residential activities; and</li> <li>4. Whether, for any additions or alterations, the existing ground floor height infringes the standard.</li> </ul>

...

Recommended changes contained with s.42A report are shown in ~~strikethrough~~ and underline  
 Recommended changes sought by Restaurant Brands are shown in ~~strikethrough~~ and underline

**He Rohe Arumoni**

**Commercial Zone**

...

Policies

...

<b>COMZ-P5</b>	<p><b>Quality design <del>–neighbourhood and townscape</del> outcomes</b></p> <p>Require new development, and alterations and additions to existing development at a site scale, to positively contribute to the sense of place, quality and amenity of the Commercial Zone by ensuring that it, where relevant:</p> <p><del>1. Meets the requirements of the Centres and Mixed Use Design Guide where relevant;</del>  <del>2.</del> <u>4.</u> Responds to the site context, particularly where it is located adjacent to:              a. Residential zoned areas; and/or              b. Open space zoned areas;  <del>3.</del> <u>2.</u> Provides a safe and comfortable pedestrian environment;  <del>4.</del> <u>3.</u> Enhances the quality of the streetscape and public / private interface;  <del>5.</del> <u>4.</u> Integrates with existing and planned active and public transport movement networks; and  <del>6.</del> <u>5.</u> Allows sufficient flexibility for ground floor space to be converted for a range of activities.</p>
----------------	---

...

Standards

...

<b>COMZ-S4</b>	<b>Minimum ground floor height</b>	
<p>1. <u>On those sites subject to active frontage and/or verandah coverage requirements on the Planning Maps,</u> <del>the</del> the minimum ground floor height to underside of structural slab or equivalent shall be 4m.</p>	<p>Assessment criteria where the standard is infringed:</p> <ol style="list-style-type: none"> <li>1. The extent to which a reduced height:                     <ol style="list-style-type: none"> <li>a. Will compromise or preclude future use or adaptation of the ground floor for non- residential activities;</li> <li>b. Is necessary to provide for functional needs or operational needs of a proposed activity;</li> </ol> </li> <li>2. Whether topographical or other site constraints make compliance with the standard impracticable or unnecessary.</li> </ol>	